

§ 279.1

32 CFR Ch. I (7–1–13 Edition)

279.6 Reporting.

AUTHORITY: Sec. 310, Pub. L. 111–32, as amended.

SOURCE: 75 FR 19879, Apr. 16, 2010; 75 FR 21506, Apr. 26, 2010, unless otherwise noted.

§ 279.1 Purpose.

This part provides for Retroactive Stop Loss Special Pay as authorized and appropriated in section 310 of Public Law 111–32 and as described in this part.

§ 279.2 Eligibility.

(a) The Secretaries concerned shall employ the Retroactive Stop Loss Special Pay authority and appropriated funding to compensate Service members, including members of the Reserve components, former and retired members under the jurisdiction of the Secretary who, at any time during the period beginning on September 11, 2001, and ending on September 30, 2009, served on active duty while the Service members' enlistment or period of obligated service was extended, or whose eligibility for retirement was suspended pursuant to any provision of law authorizing the President to extend any period of obligated service, or suspend eligibility for retirement, of a Service member in time of war or of national emergency declared by Congress or the President (commonly referred to as a "stop loss authority").

(b) Service members described in paragraph (a) of this section, who voluntarily reenlisted or extended their service or suspended their retirement and received a bonus for such reenlistment or extension of service are not eligible to receive the Retroactive Stop Loss Special Pay.

(c) Service members who were discharged or released from the Armed Forces under other than honorable conditions are not permitted to receive Retroactive Stop Loss Special Pay under section 310 of Public Law 111–32.

§ 279.3 Payment.

(a) The amount of compensation shall be \$500 per month for each month or any portion of a month during the period specified above that the member was retained on active duty as a result of application of the Stop Loss Authority. The Military Departments are to

determine and certify who is eligible to receive the Retroactive Stop Loss Special Pay and provide this information to the Defense Finance and Accounting Service (DFAS) for payment. Except as noted in this section, retroactive Stop Loss Special Pay is payable to a member under this section in addition to any other amounts payable or paid to the member by law or policy.

(b) Payment rules are:

(1) Service members will not receive a payment under "The Supplemental Appropriations Act, 2009", section 310 of Public Law 111–32 and "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009", section 8116 of Public Law 110–329, for the same month or portion of a month during which the member was retained on active duty under Stop Loss Authority as outlined in the Secretary of Defense Memorandum dated March 19, 2009, Subject: Stop Loss Special Pay.

(2) By law, Reserve Component members retained under Stop Loss Authority will receive Retroactive Stop Loss Special Pay only for service on active duty. As such, Reserve Component members may have periods before mobilization and after demobilization while under Stop Loss Authority where no Retroactive Stop Loss Special Pay can be paid.

(3) If an eligible member dies before the payment is made, the Secretary of the Military Department concerned shall make the payment in accordance with section 2771 of title 10, United States Code.

(4) Retroactive Stop Loss Special Pay is subject to all applicable taxes.

§ 279.4 Claims process.

(a) The last day for submission of claims to the Secretaries of the Military Departments for Retroactive Stop Loss Special Pay is October 21, 2010. The Secretaries concerned are not authorized to make payments on claims that are submitted after October 21, 2010.

(b) The additional period between the date of Under Secretary of Defense for Personnel and Readiness Memorandum, Subject: Retroactive Stop Loss Special Pay Compensation signed on September 23, 2009 and October 21, 2009 is

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provided for the Military Departments to:

(1) Identify and formally notify members or former members that official records indicate their potential eligibility for Retroactive Stop Loss Special Pay. This notification should reflect the estimated number of eligible months and the projected special pay amount along with guidance about how to submit a claim. Special care should be taken to work with family members of eligible Service members who are deceased. These family members may not be knowledgeable of the process and will require additional assistance after filing their claim.

(2) Make a public announcement of the Retroactive Stop Loss Special Pay Authority highlighting the scope of the program, who qualifies for the benefits, and how to submit a claim to a Service point of contact. The Service contact information will be provided in all public releases by the Office of Secretary of Defense (OSD) Public Affairs Office, as well as by each of the Services Public Affairs Offices.

(3) Establish and publish evidentiary requirements beyond those listed in this paragraph to support an unrecorded extension under Stop Loss Authority. Official documents may include but are not limited to:

(i) DD 214 Form, Certificate of Release or Discharge from Active Duty and/or DD 215, Correction to DD 214.

(ii) Personnel record or enlistment or reenlistment document recording original expiration of service date.

(iii) Approved retirement memorandum or orders establishing retirement prior to actual date of retirement as stipulated in DD Form 214 or DD Form 215.

(iv) Approved resignation memorandum or transition orders establishing a separation date prior to actual date of separation as stipulated in DD Form 214 or DD Form 215.

(v) Signed documentation or affidavit from knowledgeable officials from the individual's chain of command.

(4) Establish claim and appellate procedures, websites, points of contact for assistance or other outreach mechanisms to inform and expedite claims. Publish information on use of Board

for Correction of Military/Naval Records.

(5) Claim is submitted and adjudicated by the Service, then sent forward to the Defense Finance and Accounting Service (DFAS) for payment. Upon arrival DFAS will route claim to Debt Claims Management who will process the claim. Payments are then routed through Dispersing and then to Standards and Compliance. Then Dispersing will make payment to the former Service member or estate. Standards and Compliance will build and route reports for OSD and personnel centers.

§ 279.5 Recordkeeping.

The Military Departments will maintain a by-name accounting of claims that will allow aggregate summaries to depict:

(a) The number of claims filed.

(b) The number of claims approved.

(c) The number of claims denied and the reasons why (especially with regard to subparagraph (h) of section 310 of Pub. L. 111-32).

(d) The number of appeals.

(e) The number of claims pending and the reasons why.

(f) The amount of funding that has been obligated, to include mean and median payments provided per claimant, the number of claims and payments made in accordance with section 2771 of title 10, United States Code for deceased claimants.

(g) The mean and median processing times from receipt of claim to payment.

§ 279.6 Reporting.

The Department of Defense shall provide a consolidated report to the congressional defense committees on the implementation of section 310 of Public Law 111-32. As such, the Under Secretary of Defense for Personnel and Readiness, in coordination with the Under Secretary of Defense (Comptroller), will establish data formats and narrative requirements for a cumulative quarterly report beginning January 21, 2010, to monitor the program and the remaining balance of funding appropriated for this purpose.